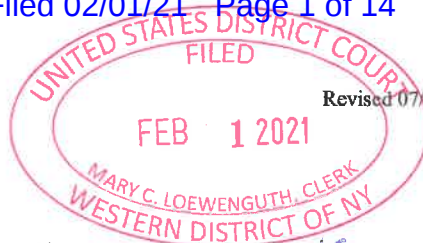


**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**



Revised 07/07 WDNV

Deborah Brenner "Pro Se"
24 Joseph Dr apt 4
Tonawanda New York 14150

Name(s) of Plaintiff or Plaintiffs

Jury Trial Demanded: Yes ☒ No ☐

-vs-

Red Lobster
41010 Maple Rd
Amherst New York

Name of Defendant or Defendants

DISCRIMINATION COMPLAINT

21 -CV- 193 ✓

You should attach a copy of your **original Equal Employment Opportunity Commission (EEOC) complaint**, a copy of the Equal Employment Opportunity Commission **decision**, **AND** a copy of the **"Right to Sue"** letter you received from the EEOC to this complaint. Failure to do so may delay your case.

Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.

This action is brought for discrimination in employment pursuant to (check only those that apply):

☒ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (amended in 1972, 1978 and by the Civil Rights Act of 1991, Pub.L.No. 102-166) (race, color, gender, religion, national origin).

NOTE: In order to bring suit in federal district court under Title VII, you **must first obtain a right to sue letter** from the Equal Employment Opportunity Commission.

☒ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621-634 (amended in 1984, 1990, and by the Age Discrimination in Employment Amendments of 1986, Pub.L.No. 99-592, the Civil Rights Act of 1991, Pub.L.No. 102-166).

NOTE: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you **must first file charges** with the Equal Employment Opportunity Commission.

☒ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112-12117 (amended by the Civil Rights Act of 1991, Pub.L.No. 102-166).

NOTE: In order to bring suit in federal district court under the Americans with Disabilities Act, you **must first obtain a right to sue letter** from the Equal Employment Opportunity Commission.

JURISDICTION is specifically conferred upon this United States District Court by the aforementioned statutes, as well as 28 U.S.C. §§ 1331, 1343. Jurisdiction may also be appropriate under 42 U.S.C. §§ 1981, 1983 and 1985(3), as amended by the Civil Rights Act of 1991, Pub.L.No. 102-166, and any related claims under New York law.

In addition to the federal claims indicated above, you may wish to include New York State claims, pursuant to 28 U.S.C. § 1367(a).

X New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297 (age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status).

PARTIES

1. My address is: 24 Joseph Dr Apt 4
Tenawanda, New York 14150
7

My telephone number is: 716-445-4093

2. The name of the employer(s), labor organization, employment agency, apprenticeship committee, state or local government agency who I believe discriminated against me is/are as follows:

Name: Red Lobster

Number of employees: 100 or more

Address: 4010 Maple Rd
Amherst New York 14226

3. (If different than the above), the name and/or the address of the defendant with whom I sought employment, was employed by, received my paycheck from or whom I believed also controlled the terms and conditions under which I were paid or worked. (For example, you worked for a subsidiary of a larger company and that larger company set personnel policies and issued you your paycheck).

Name: _____

Address: _____

CLAIMS

4. I was first employed by the defendant on (date): 02/17/2017

5. As nearly as possible, the date when the first alleged discriminatory act occurred is: March 2019
6. As nearly as possible, the date(s) when subsequent acts of discrimination occurred (if any did): March 2019 - 8/29/2019
7. I believe that the defendant(s)
- a. Are still committing these acts against me.
- b. X Are not still committing these acts against me.
- (Complete this next item **only** if you checked "b" above) The last discriminatory act against me occurred on (date) 8/2/2019
8. (Complete this section **only** if you filed a complaint with the New York State Division of Human Rights)
- The date when I filed a complaint with the New York State Division of Human Rights is
(estimate the date, if necessary)
- I filed that complaint in (identify the city and state):
- The Complaint Number was:
9. The New York State Human Rights Commission did /did not issue a decision. (NOTE: If it **did** issue a decision, you **must attach** one copy of the decision to **each** copy of the complaint; failure to do so will delay the initiation of your case.)
10. The date (if necessary, estimate the date as accurately as possible) I filed charges with the Equal Employment Opportunity Commission (EEOC) regarding defendant's alleged discriminatory conduct is:
11. The Equal Employment Opportunity Commission did did /did not issue a decision. (NOTE: If it **did** issue a decision, you **must attach** one copy of the decision to **each** copy of the complaint; failure to do so will delay the initiation of your case.)
12. The Equal Employment Opportunity Commission issued the attached Notice of Right to Sue letter which I received on: Nov 4, 2020. (NOTE: If it

did issue a Right to Sue letter, you **must attach** one copy of the decision to **each** copy of the complaint; failure to do so will delay the initiation of your case.)

13. I am complaining in this action of the following types of actions by the defendants:

- a. ☐ Failure to provide me with reasonable accommodations to the application process
- b. ☒ Failure to employ me
- c. ☒ Termination of my employment
- d. ☐ Failure to promote me
- e. ☒ Failure to provide me with reasonable accommodations so I can perform the essential functions of my job
- f. ☐ Harassment on the basis of my sex
- g. ☒ Harassment on the basis of unequal terms and conditions of my employment
- h. ☒ Retaliation because I complained about discrimination or harassment directed toward me
- i. ☐ Retaliation because I complained about discrimination or harassment directed toward others
- j. ☐ Other actions (please describe) _____

14. Defendant's conduct is discriminatory with respect to which of the following (*check all that apply*):

- | | |
|--|--|
| a. <input type="checkbox"/> Race | f. <input type="checkbox"/> Sexual Harassment |
| b. <input checked="" type="checkbox"/> Color | g. <input checked="" type="checkbox"/> Age _____ Date of birth _____ |
| c. <input type="checkbox"/> Sex | h. <input checked="" type="checkbox"/> Disability |
| d. <input type="checkbox"/> Religion | Are you incorrectly perceived as being disabled by your employer? |
| e. <input type="checkbox"/> National Origin | <input checked="" type="checkbox"/> yes <input type="checkbox"/> no |

15. I believe that I was ☒ /was not ☐ **intentionally** discriminated against by the defendant(s).

16. I believe that the defendant(s) is/are _____ is not/are not X still committing these acts against me. (If you answer is that the acts are not still being committed, state when: 8/29/2019 and why the defendant(s) stopped committing these acts against you: _____)

I was terminated

17. **A copy of the charge to the Equal Employment Opportunity Commission is attached to this complaint and is submitted as a brief statement of the facts of my claim.** (NOTE: You **must** attach a copy of the **original complaint** you filed with the Equal Employment Opportunity Commission and a copy of the **Equal Employment Opportunity Commission affidavit** to this complaint; failure to do so will delay initiation of your case.)

18. The Equal Employment Opportunity Commission (check one):

_____ **has not** issued a Right to sue letter

X **has** issued a Right to sue letter, which I received on 11/4/2020

19. State here as briefly as possible the *facts* of your case. Describe how each defendant is involved, including *dates* and *places*. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets if necessary.)

1) I asked for a change in schedule and was told no by Andrew (General Manager). A woman²¹ came in to transfer to our store with the same schedule as I asked for and she was told yes by Andrew. I brought it to Andrew's attention and was told fuck it up. I then went to home office and Andrew started retaliating against me by not allowing me to pick up extra shifts, and not scheduling me.
2) April 28, 2019 a table of 45 black people complained to Andrew that I was rude and ignorant towards them. Andrew pulled me in the office and screamed at me in front of all the managers. Then Charisse a black server, called me a "Fucking idiot" I did in response tell her to "Kiss my big fat white ass" I was sent home and Charisse received no discipline.

FOR LITIGANTS ALLEGING AGE DISCRIMINATION

20. Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct

X 60 days or more have elapsed _____ less than 60 days have elapsed

FOR LITIGANTS ALLEGING AN AMERICANS WITH DISABILITIES ACT CLAIM

21. I first disclosed my disability to my employer (or my employer first became aware of my disability on Date of hire 2/17/2017)

22. The date on which I first asked my employer for reasonable accommodation of my disability is July 1, 2019
23. The reasonable accommodations for my disability (if any) that my employer provided to me are: Change in hours
24. The reasonable accommodation provided to me by my employer were _____/were not X effective.

WHEREFORE, I respectfully request this Court to grant me such relief as may be appropriate, including injunctive orders, damages, costs and attorney's fees.

Dated: 2/1/2021 Deborah S. Brenner

Plaintiff's Signature

TIMOTHY W. HALAS
Notary Public, State of New York
Qualified in Erie County
Commission Expires

6/14/2024

Timothy W. Halas

Continued From page 5

3) On May 1, 2019 I send andrew an email saying I was being discriminated against, and racially profiled. He did not respond

4) On June 10, 2019 I called andrew and told him I was released to come back to work following medical treatment. At that time Andrew issued me a final written warning and was told I had to sign it before I could be placed on the schedule. It took them 3 weeks before I was put back on the schedule.

5) July 1, 2019 I handed Andrew & Joe a letter of accommodation for my disability. Requesting that I only work 6 hr shifts, because I could not work 9-10 hours without a break. They accepted my request ~~but~~ after I provided substantiating documents. Andrew requested protected medical information that is not directly related to my reasonable accommodation request. After I made him aware of him not being entitled to that information he argued with me until I walked out.

6) On August 9, 2019, I removed my shoe in the back of the restaurant to remove a stone. ~~Said~~ the on duty manager yelled at me to just cash out and go home. I was told by Andrew I was suspended the 12 of August, 2019. Although there is nothing in our employee handbook about suspensions. I was given nothing after that Andrew requested to meet with me. I requested to have an ~~advocate~~ advocate from the Independent Living center but he refused to allow it. I was taken off the schedule or when I showed up for work I was sent home.

7) after many requests to pick up shifts that were denied I was terminated that was August 29, 2019. Andrew called me from his personal cell phone which is against company policy-



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Buffalo Local Office

Olympic Towers
300 Pearl Street, Suite 450
Buffalo, NY 14202
(716) 431-5011
FAX (716) 551-4387

Deborah L. Brenner
24 Joseph Drive, Apt. 4
Tonawanda, NY 14150

Re: EEOC Charge No.: 525-2019-01422
Deborah L. Brenner v. Red Lobster

Dear Ms. Brenner:

The Equal Employment Opportunity Commission (hereinafter referred to as the "Commission"), has reviewed the above-referenced charge according to our charge prioritization procedures. These procedures, which are based on a reallocation of the Commission's staff resources, apply to all open charges in our inventory and call for us to focus our limited resources on those cases that are most likely to result in findings of violations of the laws we enforce.

In accordance with these procedures, we have evaluated your charge based upon the information and evidence submitted. You alleged that you were harassed, subjected to different terms and conditions of employment, disciplined, and discharged because of your race/white, your age, your disability, and in retaliation for participating in protected activity.

Respondent's position statement has been previously shared with you. Your rebuttal to this position statement has been received and analyzed. Based upon this analysis the Commission is unable to conclude that the information establishes a violation of Federal law on the part of Respondent. This does not certify that Respondent is in compliance with the statutes. No finding is made as to any other issue that might be construed as having been raised by this charge.

The Commission's processing of this charge has been concluded. Included with this letter is your Notice of Dismissal and Right to Sue. Following this dismissal, you may only pursue this matter by filing suit against the Respondent named in the charge within 90 days of receipt of said notice. Otherwise, your right to sue will be lost. Please contact Investigator Jeremy Boyd at (716) 431-5011 if you have any questions.

Sincerely,

Maureen C. Kielt

Digitally signed by Maureen C. Kielt
DN: cn=Maureen C. Kielt, o=Equal Employment Opportunity Commission,
ou=Buffalo Local Office, email=maureen.kielt@eoc.gov, c=US
Date: 2020.11.04 15:34:08 -0500

for

Maureen Kielt
Director
Buffalo Local Office

Date:

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Deborah L. Brenner**
24 Joseph Dr., Apt 4
Tonawanda, NY 14150

From: **Buffalo Local Office**
300 Pearl Street
Suite 450
Buffalo, NY 14202



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

525-2019-01422

Jeremy M. Boyd,
Investigator

(716) 431-5011**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Maureen C. Kieft

Digitally signed by Maureen C. Kieft
 DN: cn=Maureen C. Kieft, o=Equal Employment Opportunity Commission, ou=Buffalo Local Office,
 email=maureen.kieft@eeoc.gov, c=US
 Date: 2020.11.04 15:27:44 -05'00'

Enclosures(s)

Maureen Kieft,
Local Office Director

(Date Mailed)

cc:

Tonya Heron
Counsel
RED LOBSTER
450 S. Orange Avenue Ste 800
Orlando, FL 32801

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: Agency(ies) Charge No(s): <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC </div> <div style="text-align: right;"> 525-2019-01422 </div> </div>	
NEW YORK STATE DIVISION OF HUMAN RIGHTS and EEOC <i>State or local Agency, if any</i>			
Name (Indicate Mr., Ms., Mrs.) MS. DEBORAH L BRENNER		Home Phone (716) 445-4093	Year of Birth 1967
Street Address City, State and ZIP Code 24 JOSEPH DR APT 4, TONAWANDA, NY 14150			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name RED LOBSTER		No. Employees, Members	Phone No. (716) 837-0202
Street Address City, State and ZIP Code 4010 MAPLE RD, AMHERST, NY 14226			
Name		No. Employees, Members	Phone No.
Street Address City, State and ZIP Code			
DISCRIMINATION BASED ON (Check appropriate box(es).) <div style="display: flex; flex-wrap: wrap;"> <div style="margin-right: 10px;"><input checked="" type="checkbox"/> RACE</div> <div style="margin-right: 10px;"><input type="checkbox"/> COLOR</div> <div style="margin-right: 10px;"><input type="checkbox"/> SEX</div> <div style="margin-right: 10px;"><input type="checkbox"/> RELIGION</div> <div style="margin-right: 10px;"><input type="checkbox"/> NATIONAL ORIGIN</div> <div style="margin-right: 10px;"><input checked="" type="checkbox"/> RETALIATION</div> <div style="margin-right: 10px;"><input checked="" type="checkbox"/> AGE</div> <div style="margin-right: 10px;"><input checked="" type="checkbox"/> DISABILITY</div> <div style="margin-right: 10px;"><input type="checkbox"/> GENETIC INFORMATION</div> <div style="margin-right: 10px;"><input type="checkbox"/> OTHER (Specify)</div> </div>		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest 03-12-2019 08-29-2019 <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <p>I AM A QUALIFIED INDIVIDUAL WITH A DISABILITY. I WAS BORN IN 1967. MY RACE IS WHITE. ON OR ABOUT FEBRUARY 16, 2017, I BEGAN EMPLOYMENT WITH THE RESPONDENT AS A SERVER. THAT WAS MY LAST POSITION THERE.</p> <p>ON OR ABOUT MARCH 12, 2019, I ASKED THE RESPONDENT TO HAVE MY HOURS REDUCED. MY GENERAL MANAGER, ANDREW BURGSTHLER, DENIED MY REQUEST. APPROXIMATELY TWO HOURS LATER, A 21-YEAR-OLD, BLACK FEMALE, LUCY, REQUESTED TO TRANSFER TO THIS RESTAURANT TO WORK THERE ONE DAY PER WEEK. HER REQUEST WAS GRANTED.</p> <p>I COMPLAINED TO BURGSTHLER WHO DID NOTHING. AFTER MY SHIFT, I WENT HOME AND COMPLAINED TO THE HOME OFFICE THAT I BELIEVED THAT I WAS BEING DISCRIMINATED AGAINST. AFTERWARD, BURGSTHLER CHANGED MY SCHEDULE AS REQUESTED; BUT HE REFUSED TO ALLOW ME TO PICK UP ANY OTHER SHIFTS. MOREOVER, BURGSTHLER WAS ANGRY WITH ME FOR HAVING COMPLAINED.</p>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the above is true and correct.		NOTARY - When necessary for State and Local Agency Requirements I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	
Digitally signed by Deborah Brenner on 11-04-2019 07:40 AM EST			

EEOC Form 5 (11/09)

<p style="text-align: center;">CHARGE OF DISCRIMINATION</p> <p style="font-size: small;">This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</p>	<p>Charge Presented To: Agency(ies) Charge No(s):</p> <p> <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC </p> <p style="text-align: right; font-weight: bold;">525-2019-01422</p>
<p>NEW YORK STATE DIVISION OF HUMAN RIGHTS and EEOC</p> <p style="font-size: x-small;"><i>State or local Agency, if any</i></p>	
<p>ON OR ABOUT APRIL 28, 2019, A TABLE OF ABOUT 45 BLACK PEOPLE COMPLAINED TO BURGSTHLER THAT I WAS RUDE AND IGNORANT TOWARDS THEM. BURGSTHLER PULLED ME IN TO HIS OFFICE AND SCREAMED AT ME IN FRONT OF OTHER MANAGERS.</p> <p>THEN, CHARISSE, A BLACK SERVER, CALLED ME A 'FUCKING IDIOT.' I RESPONDED, TELLING HER THAT, 'SHE CAN KISS MY BIG, FAT, WHITE ASS.' I WAS SENT HOME WHILE CHARISSE RECEIVED NO DISCIPLINE.</p> <p>ON OR ABOUT MAY 1, 2019, I SENT AN E-MAIL TO BURGSTHLER THAT I BELIEVED THAT I WAS BEING RACIALLY PROFILED. HE DID NOT RESPOND TO THIS E-MAIL.</p> <p>ON OR ABOUT JUNE 10, 2019, I INFORMED THE RESPONDENT THAT I COULD RETURN TO WORK FOLLOWING MY MEDICAL TREATMENT. AT THAT TIME, THE RESPONDENT ISSUED TO ME A WARNING LETTER FOR SWEARING AT CHARISSE. I HAD TO SIGN THE LETTER IN ORDER TO BE PLACED ON THE SCHEDULE.</p> <p>ON OR ABOUT JULY 1, 2019, I REQUESTED THAT MY SHIFTS BE NO LONGER THAN SIX HOURS IN ORDER TO ACCOMMODATE MY DISABILITY. THE RESPONDENT GRANTED MY REQUEST AFTER MY DOCTOR PROVIDED SUBSTANTIATING DOCUMENTS. HOWEVER, BURGSTHLER ATTEMPTED TO GAIN ACCESS TO MY PROTECTED MEDICAL INFORMATION THAT WAS NOT DIRECTLY RELATED TO MY REASONABLE ACCOMMODATION REQUEST. I INFORMED HIM THAT HE IS NOT ENTITLED TO THAT INFORMATION. HE SUSPENDED ME.</p> <p>ON OR ABOUT AUGUST 9, 2019, I REMOVED MY SHOE IN THE BACK OF THE RESTAURANT IN ORDER TO REMOVE A PEBBLE. THE RESPONDENT TOLD ME TO CASH OUT AND GO HOME.</p> <p>AFTERWARD, BURGSTHLER WANTED TO MEET WITH ME AGAIN. I REQUESTED TO HAVE AN ADVOCATE WITH ME, BUT HE REFUSED TO ALLOW IT.</p> <p>ON OR ABOUT AUGUST 29, 2019, BURGSTHLER CALLED ME FROM HIS MOBILE PHONE TO TERMINATE ME.</p> <p>I BELIEVE THAT I WAS SUBJECTED TO THIS HOSTILE, OFFENSIVE, AND INTIMIDATING WORK ENVIRONMENT, SUBJECTED TO DIFFERENT TERMS AND CONDITIONS OF EMPLOYMENT, DISCIPLINED, AND DISCHARGED BECAUSE OF MY DISABILITY, MY AGE, MY RACE, AND IN RETALIATION FOR PARTICIPATING IN PROTECTED ACTIVITY, IN WILLFUL VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED, THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, AS AMENDED, AND TITLE I OF THE AMERICANS WITH DISABILITIES ACT OF 1990, AS AMENDED.</p>	

<p>I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.</p> <p>I declare under penalty of perjury that the above is true and correct.</p> <p style="text-align: center; margin-top: 20px;">Digitally signed by Deborah Brenner on 11-04-2019 07:40 AM EST</p>	<p>NOTARY – <i>When necessary for State and Local Agency Requirements</i></p> <hr/> <p>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.</p> <p style="text-align: center;">SIGNATURE OF COMPLAINANT</p> <p>SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)</p>
---	--

CP Enclosure with EEOC Form 5 (11/09)

PRIVACY ACT STATEMENT: Under the Privacy Act of 1974, Pub. Law 93-579, authority to request personal data and its uses are:

- 1. FORM NUMBER/TITLE/DATE.** EEOC Form 5, Charge of Discrimination (11/09).
- 2. AUTHORITY.** 42 U.S.C. 2000e-5(b), 29 U.S.C. 211, 29 U.S.C. 626, 42 U.S.C. 12117, 42 U.S.C. 2000ff-6.
- 3. PRINCIPAL PURPOSES.** The purposes of a charge, taken on this form or otherwise reduced to writing (whether later recorded on this form or not) are, as applicable under the EEOC anti-discrimination statutes (EEOC statutes), to preserve private suit rights under the EEOC statutes, to invoke the EEOC's jurisdiction and, where dual-filing or referral arrangements exist, to begin state or local proceedings.
- 4. ROUTINE USES.** This form is used to provide facts that may establish the existence of matters covered by the EEOC statutes (and as applicable, other federal, state or local laws). Information given will be used by staff to guide its mediation and investigation efforts and, as applicable, to determine, conciliate and litigate claims of unlawful discrimination. This form may be presented to or disclosed to other federal, state or local agencies as appropriate or necessary in carrying out EEOC's functions. A copy of this charge will ordinarily be sent to the respondent organization against which the charge is made.
- 5. WHETHER DISCLOSURE IS MANDATORY; EFFECT OF NOT GIVING INFORMATION.** Charges must be reduced to writing and should identify the charging and responding parties and the actions or policies complained of. Without a written charge, EEOC will ordinarily not act on the complaint. Charges under Title VII, the ADA or GINA must be sworn to or affirmed (either by using this form or by presenting a notarized statement or unsworn declaration under penalty of perjury); charges under the ADEA should ordinarily be signed. Charges may be clarified or amplified later by amendment. It is not mandatory that this form be used to make a charge.

NOTICE OF RIGHT TO REQUEST SUBSTANTIAL WEIGHT REVIEW

Charges filed at a state or local Fair Employment Practices Agency (FEPA) that dual-files charges with EEOC will ordinarily be handled first by the FEPA. Some charges filed at EEOC may also be first handled by a FEPA under worksharing agreements. You will be told which agency will handle your charge. When the FEPA is the first to handle the charge, it will notify you of its final resolution of the matter. Then, if you wish EEOC to give Substantial Weight Review to the FEPA's final findings, you must ask us in writing to do so within 15 days of your receipt of its findings. Otherwise, we will ordinarily adopt the FEPA's finding and close our file on the charge.

NOTICE OF NON-RETALIATION REQUIREMENTS

Please **notify** EEOC or the state or local agency where you filed your charge **if retaliation is taken against you or others** who oppose discrimination or cooperate in any investigation or lawsuit concerning this charge. Under Section 704(a) of Title VII, Section 4(d) of the ADEA, Section 503(a) of the ADA and Section 207(f) of GINA, it is unlawful for an *employer* to discriminate against present or former employees or job applicants, for an *employment agency* to discriminate against anyone, or for a *union* to discriminate against its members or membership applicants, because they have opposed any practice made unlawful by the statutes, or because they have made a charge, testified, assisted, or participated in any manner in an investigation,

proceeding, or hearing under the laws. The Equal Pay Act has similar provisions and Section 503(b) of the ADA prohibits coercion, intimidation, threats or interference with anyone for exercising or enjoying, or aiding or encouraging others in their exercise or enjoyment of, rights under the Act.